

# **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

## **Minutes**

**February 17, 2005**

The Capital Projects and Bond Oversight Committee met on Thursday, February 17, 2005, at 12:00 PM, in Room 113 of the Capitol Annex. Representative Mike Denham, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Mike Denham, Co-Chair; Senator Robert (Bob) Leeper, Co-Chair; Representatives Paul Marcotte and Jim Wayne; and Senators Tom Buford, Tom Jensen, and Jerry Rhoads.

Guests testifying before the Committee: Robbie Rudolph, Jim Abbott, Joe Meyer, and Steve Biven, Finance and Administration Cabinet; Bill Hintze, Governor's Office for Policy and Management; Warren Nash, Economic Development Cabinet; Sandy Williams, Kentucky Infrastructure Authority; and Tom Howard, Office of Financial Management.

LRC Staff: Mary Lynn Collins, Pat Ingram, Nancy Osborne, Kevin Mason, Bart Hardin, and Shawn Bowen.

Representative Denham introduced guests Dr. Dave Doddy, Chairman of the Kentucky OBGYN Society; Tim Stump, Mason County Health Department; and Kevin Cartwell, Hospice of Hope.

Representative Denham called on Ms. Mary Lynn Collins, Committee Staff Administrator, to review correspondence and information items. Ms. Collins said members' folders included one correspondence item - the Kentucky Lottery Corporation's monthly financial report for December 2004, and two information items - a staff update on various capital projects and proposed legislation relating to the jurisdiction of the Capital Projects and Bond Oversight Committee.

Representative Wayne made a motion to approve the minutes of the January 18, 2005 meeting as submitted. The motion was seconded by Representative Marcotte and passed by voice vote.

Representative Denham asked Finance and Administration Cabinet Secretary Robbie Rudolph to brief the Committee on the construction problems at the new Elliott County prison, the Little Sandy Correctional Complex.

Secretary Rudolph said the Little Sandy Correctional Complex is an impressive, very modern, up-to-date structure that should last for many years. However, he noted that they have discovered a number of problems at the facility. Last April, Cabinet officials discovered surface rust on the prison's stainless steel windows. They later determined that when the stainless steel was manufactured, steel in the rollers got embedded in the stainless, and caused the rust problem. Since then, the windows were force ground, taking the rust off the windows, and for the present time, the problem has been corrected.

Secretary Rudolph then described other problems at the construction site. Last September, after heavy rains, 155 of the cells had water on the floors. Finance officials discovered the water infiltration problem was related to the pre-cast concrete which had developed multiple cracks. After grinding out the cracks and caulking, state officials have determined the cracks have gotten wider. Secretary Rudolph pointed out that in addition to concerns they have regarding potential mold and health issues, there is a concern that prisoners could hide razors and other items in the cracks. He indicated that they are concerned that these problems are going to significantly increase maintenance costs.

Secretary Rudolph identified other problems at the site: a smoke evacuation system had to be replaced; the HVAC system is not working; and a large retaining wall is bowed and moving. The City of Sandy Hook recently notified the state it could not accept the prison's sewer system because it is being infiltrated with three and a half times the amount of water it is supposed to handle.

Secretary Rudolph expressed frustration that the contractor has not been responsive in addressing these problems, and that some of the problems identified are going to increase the facility's overall maintenance costs. He said they are pushing to have the prison open by July 1. They recently met with the construction company, and gave them until the middle of next week to give the Cabinet an answer on the timeline for addressing the problems. He said they will probably be in litigation regarding the project.

Representative Denham thanked Secretary Rudolph for the update on the prison. In response to a question by Representative Marcotte, Joe Meyer, project manager with the Department for Facilities and Support Services, said project construction began two and half years ago.

Representative Marcotte asked if the contractor and the architect had sufficient insurance for the project. Secretary Rudolph said they have a surety bond that will pay if the company should go bankrupt prior to completion of the project. He referred to problems the state experienced with the Green River Correctional Complex, built in the 1990s. Two or three years after the project was completed, the state discovered buckets the contractor had left in the ceiling to catch leaks in the roof. By the time they discovered the problem, the roofing contractor was bankrupt. Since the state had accepted the

building, the surety bond had expired. Consequently, the state had to pay for the replacement of roofs at the Green River Correctional Complex. Secretary Rudolph said they are trying to avoid similar problems at the Elliott County prison.

In response to another question by Representative Marcotte, Jim Abbott, Commissioner for the Department for Facilities and Support Services, said this project was implemented as a design-build project. The state procured an architect and construction team under one procurement. He noted that all the firms who participated in the procurement process offered a similar type of pre-cast concrete cells, and this was assumed to be an industry standard.

Representative Wayne asked if the Finance officials believed that having the architect as part of the construction team rather than as an independent agent contributed to the problems at the prison. Mr. Abbott said since this was a design-build project, they did not have all the information they would have if the project had been designed first and then the construction bid. He also noted that problems have developed between the architect (DLR Group Inc.) and the contractor (Ray Bell Construction Company); they have brought suits against each other, and the Commonwealth is a third party to the litigation.

Representative Wayne then asked if the Cabinet had ever considered hiring a commissioning agent early in the process to assure that the HVAC and other systems performed as needed.

Mr. Abbott said they had considered hiring a commissioning agent at the conclusion of the project. They have now hired a consultant to review the mechanical systems. He said they had not anticipated the problems that arose on the project. They had confidence that the design-build team would deliver this product with a quality acceptable to the Commonwealth. However, he noted that the experience, to date, has not been favorable. They have taken the extraordinary action of hiring numerous consultants to look at every issue identified earlier by Secretary Rudolph.

Representative Wayne commended the Cabinet for taking that action. He expressed concern that the Committee learned about these problems, not from the Cabinet but from the newspapers. He asked the Secretary in the future to keep the Committee informed of problems as they develop.

Secretary Rudolph said he understood Representative Wayne's concerns, and that the problem really came to a head about the time it was reported in the press.

Senator Leeper said he wanted to echo Representative Wayne's comments. He said even though the Committee gets reports periodically on the status of each construction project, he did not think the reports alerted the Committee to the problems at the Elliott County prison. He suggested that the Committee work with staff to make sure such problems are

identified in the future. He thanked Secretary Rudolph for his efforts on behalf of the citizens of Kentucky.

In response to questions by Senator Buford, Mr. Abbott said the precast concrete, according to the design, should not have cracks. However, there are cracks at every window corner. Secretary Rudolph added that there is concern that the rails on the second floor balcony may not be engineered correctly. Also, he pointed out that as they were fixing the windows, they discovered that the caulking used was eating into the stainless steel. He noted this is a problem they would not otherwise have discovered until it caused a problem.

In response to a question from Senator Buford, Mr. Abbott indicated that there was a project manager on site from the beginning of the project.

Representative Denham thanked Secretary Rudolph for bringing the Committee up to date on the prison project.

Representative Denham asked Mr. Bill Hintze, Deputy Budget Director, Governor's Office for Policy and Management, and Mr. Abbott to present the Finance Cabinet's monthly report to the Committee. Mr. Abbott reported six Energy Savings Performance Contracts (ESPC): Military Affairs/National Guard Armories - \$1,050,163; Transportation Cabinet/Statewide Traffic Signals - \$9,305,253; Corrections/LaGrange Facilities - \$5,015,810; Morehead State University - \$1,824,000; Northern Kentucky University - \$4,530,252; and Kentucky State University - \$6,983,500. Mr. Abbott said the total amount of the contracts is \$28,663,978. The ESPC projects did not require Committee approval.

Mr. Abbott said at the Committee's May 2004 meeting, members requested that Finance and Administration Cabinet personnel prepare a policy relative to ESPC projects. He said they have provided staff with a copy of that policy entitled *Energy Savings Performance Contracts Energy Management*. He said the projects that are brought forward in the future will be much better projects, and the viability of those projects will be something the state can all take pride in. No further action was required on the ESPC projects.

Mr. Hintze next discussed an unbudgeted equipment purchase using federal funds for the Kentucky State Police (KSP). He said KSP plans to purchase a multi-use special response vehicle, the LENCO BearCat. This is an armored vehicle for services designed to rescue people or victims in the event of emergency situations. The vehicle costs \$176,581, and will be financed from federal funds.

Mr. Hintze reported another project for KSP. He said KSP will use federal funds in the amount of \$2,896,100 to perform a computer upgrade of their statewide communication system. The upgrade is necessary to increase the interoperability of emergency

communication systems throughout the state, not only with KSP, but with local police forces and emergency responders too.

Mr. Hintze reported a \$320,900 federally-funded scope increase for the National Environmental Exchange Network project. This project was approved by the Committee in September 2004 at a scope of \$650,000 (federal funds). The scope increase will be used to facilitate data transmission from the Tools for Environmental Management Protection Organizations system and to implement the network node portion of the project.

The final item Mr. Hintze reported was a \$925,000 scope increase for the Northern Kentucky University (NKU) Natural Science Building project. The scope increase will be a combination of private, restricted, and federal funds, and will be used to complete the planetarium and construct a greenhouse.

Senator Buford made a motion to approve the four projects submitted by the Finance and Administration Cabinet. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote. The revised project scopes for the National Environmental Exchange Network project and the NKU Natural Science Building project are \$970,900 and \$40,125,000, respectively.

Elizabeth Baker, Director of Planning, University of Kentucky (UK), and Zed Day, Chief Information Officer, UK Hospital, reported an emergency equipment purchase of a Perioperative Information Management System. The cost of the equipment is \$1,168,000, and will be purchased using hospital agency funds. Ms. Baker explained that this equipment provides critical information regarding patient care from the time a patient checks into the hospital until the time they leave. She said the current system, which was purchased in 1998, has gone down several times recently, and is overloaded. Emergency purchases must be reported to the Committee within 30 days, but no further action is required.

Mr. Steve Biven, Director, Division of Real Property, reported changes in square footage for one state lease during the period of October through December 2004. He said the Department of Corrections, Division of Community Services (PR-4702) in Daviess County, has added 1,290 square feet at an additional cost of \$12,578. Lease modifications of less than \$50,000 must be reported to the Committee, but no action is required.

Representative Denham asked Mr. Warren Nash, Deputy Commissioner, Department for Financial Incentives, Cabinet for Economic Development, to report one new Economic Development Bond (EDB) grant.

Mr. Nash reported a grant of \$340,000 to the Warren County Fiscal Court, to benefit Retail Logic, Inc., a designer and manufacturer of metal and wood store fixtures. The

company plans to relocate its manufacturing operations from Glasgow (Barren County) to a facility it recently purchased in Warren County. Mr. Nash said the EDB grant funds will be used to acquire additional equipment to expand its manufacturing capacity. The total amount of the project is \$6.5 million, and the equipment portion of the project is \$2,358,000.

Mr. Nash said the EDB grant agreement stipulates that Retail Logic must offer all of its 215 Kentucky employees at its Glasgow facility equivalent positions at the new Warren County facility. In addition, the agreement will require the company to create 125 additional full-time jobs for Kentucky residents within two years of completion of the construction of the facility. The company will further be required to maintain a total of 340 jobs for an additional three years. If the company fails to meet these requirements, it will be required to repay \$1,000 to the County for each new full-time job not created or maintained. He said Retail Logic, Inc. will also be required to pay the 340 full-time employees a minimum annual average hourly wage of \$11.50.

In response to a question from Representative Marcotte, Mr. Nash said the EDB funds for this project are from a previously approved bond pool.

Representative Marcotte asked how much money the Economic Development Cabinet has requested to restock the EDB pool. Mr. Nash said in the Governor's proposed budget, there is authorization for an additional \$15 million in bonds, in addition to reauthorization of \$5 million from the previous budget.

Senator Leeper made a motion to approve the new EDB issue. The motion was seconded by Representative Marcotte and approved by unanimous roll call vote.

Ms. Sandy Williams, Kentucky Infrastructure Authority (KIA), reported one new KIA loan request for the Madison County Utility District. She said the District is requesting an increase of \$300,000 in a previously approved Fund F loan. The proceeds will be used to finance system improvements.

Senator Leeper made a motion to approve the Fund F loan increase. The motion was seconded by Senator Rhoads and passed by unanimous roll call vote. The revised Fund F loan is \$3,300,000.

Also included in members' folders was a report from KIA regarding a Coal/Tobacco Development Grant for the South Hopkins Water District. No further action was required on this project.

The next report was provided by Mr. Tom Howard, Deputy Executive Director, Office of Financial Management (OFM). Mr. Howard reported two new bond issues. The first bond issue reported was Kentucky Housing Corporation (KHC) Single Family Housing

Revenue Bonds, 2005 Series A and B, with gross proceeds not to exceed \$50,000,000. The proceeds of the bond issue will be used to provide mortgage financing for low and moderate income households.

Senator Leeper made a motion to approve Single Family Housing Revenue Bonds, 2005 Series A and B. The motion was seconded by Representative Marcotte and passed by unanimous roll call vote.

Mr. Howard presented another new bond issue: State Property and Buildings Commission (SPBC) Revenue Refunding Bonds, Project No. 84. The proceeds from this bond issue (\$202,487,634), will be used to refund outstanding bonds.

Senator Rhoads made a motion to approve the new SPBC bond issue. The motion was seconded by Senator Buford and passed by unanimous roll call vote.

Also included in members' folders were three follow-up reports for previously issued bonds: Kentucky Economic Development Finance Authority (KEDFA) Variable Rate Revenue Bonds (Catholic Health Initiatives), Series 2004C and 2004D, \$94,575,000; KEDFA Variable Rate Demand Hospital Revenue Refunding Bonds, Series 2005A (Baptist Healthcare System Obligated Group), Public Auction Reset Securities (PARS), Subseries 2005A-1 and Subseries 2005A-2, \$94,300,000; and University of Kentucky Housing and Dining System Refunding Revenue Bonds, Series P & Q (Second Series), dated January 11, 2005, \$6,230,000. These were previously approved issues, and no further action was required for these reports.

Mr. Howard next presented nine new school bond issues with School Facilities Construction Commission (SFCC) debt service participation: Daviess County, Grant County, Hardin County, Harlan Independent (Harlan Co.), Henderson County, Middlesboro Independent (Bell Co.), Pendleton County, Perry County, and Pike County.

Senator Leeper made a motion to approve the nine school bond issues. The motion was seconded by Representative Marcotte and passed by unanimous roll call vote.

Ms. Collins said there were four locally-funded school bond issues submitted to the Committee for review this month: Daviess County, Grant County, Madison County, and Russell County. She said all disclosure information has been filed, and no further action on the bond issues was required.

Also included in members' folders was the debt issuance calendar. No action was required for these reports.

Senator Leeper said the Committee's next meeting will be scheduled during the veto session in March.

With there being no further business, Senator Rhoads made a motion to adjourn the meeting. The motion was seconded, and the meeting adjourned at 1:00 p.m.